

**REMARKS**

Claims 23-52 are pending in this application with claims 23, 34, 37 and 47-52 being amended in this response. Support for the amendments to the claims may be found throughout the specification and originally filed claims. Consequently, Applicants respectfully submit that no new matter is added by the amendments to the claims.

**Telephone Interview Summary**

Applicant's Representative would like to thank Examiner Beharry for the courtesy extended during the telephone discussion on March 11, 2010. During this discussion, Examiner Beharry and Applicant's Representative discussed the Rejection under 35 USC 101. Examiner Beharry indicated that the Rejection under 35 USC 101 would be overcome by amending the claims to recite a processor that executes instructions for performing the claimed features. The claims have been amended in accordance with the suggestion of the Examiner.

**Rejection of Claim 23 – 46 under 35 USC 101**

Claims 23 – 46 are rejected under 35 USC 101 as being software per se. In view of the above remarks regarding the discussion with Examiner Beharry on March 11, 2010, independent claims 23, 34 and 37 have been amended in accordance with the suggestion of the Examiner to include the term "processor". Specifically, claim 23 is amended to recite a "Recognition unit comprising a processor for executing instructions for recognizing synchronization signals in at least one audiovisual programme received". Claim 34 is amended to recite a "Specification unit comprising a processor for executing instructions for specifying synchronization signals associated with at least one audiovisual programme" and claim 37 is amended to recite a "Synchronization system including a processor for executing instructions". Thus, as these claims recite a processor they are known in the art to be hardware and thus are statutory subject matter under 35 USC 101.

Applicant would like to point out that the amendments made to the claims are done in order to further prosecution on the subject patent application. However, despite these amendments, Applicant maintains that the assertion that the claims, as previously presented, were software *per se* is erroneous. The Office Action asserts that on page 9, lines 20 – 28 of the present specification, the elements “units” and “modules” are “one and the same piece of software”. Applicant respectfully disagrees. Applicant respectfully submits that definition alleged in the Office Action takes the present specification out of context. The full passage from which the Office Action cites is (emphasis added):

“In the definition of the recognition unit, as in the remainder of the patent application, the “units” and “modules” are to be understood in a functional sense, and are therefore not limited to particular realizations. Thus, they may in particular be grouped together into one and the same component or one and the same piece of software, or on the contrary be dispersed among various components. Moreover, the recognition unit can be installed broadcasting side (typically at the broadcaster’s premises), service operator side, or in a terminal for receiving audiovisual programmes, preferably an interactive one, in embedded form.”

Thus, the passage mentions that the units and the modules are not limited to particular realizations, and may notably be grouped together in one and the same component or in one and the same piece of software. The wording “component” is thus clearly proposed as an alternative to “software”, and is thus describes an article of manufacture that is not software. Therefore, Applicant respectfully submits that in view of Applicants definition of the term unit and/or module clearly contemplates that the claimed “reception module”, “detection module” and “transmission module” are hardware components which, when assembled together, form the claimed “recognition unit”. Therefore, one skilled in the art of computer architecture would understand the term component to be a piece of hardware circuitry and not merely a piece of software *per se*. In addition, the passage mentions “in embedded form”. A person skilled in the art knows that there exist two forms of embedding, i.e. in hardware or software. Therefore, a person skilled in the art would thus understand the cited passage as

defining units and modules of the claimed arrangement as being implemented in hardware components or in a piece of software. Thus, by asserting that the claimed elements are software per se, the Office Action artificially and unduly limits the scope of the invention contemplated by the Applicant. As the claimed arrangement clearly includes elements that are hardware, it is respectfully submitted that the units and modules claimed in claims 23 – 46 are hardware and thus are statutory subject matter under 35 USC 101. Therefore, it is respectfully submitted that this rejection has been overcome and should be withdrawn.

**Rejection of Claim 47 – 49 under 35 USC 101**

Claims 47 – 49 are rejected under 35 USC 101 because the claimed invention is not directed towards statutory subject matter.

Claim 47 is amended to recite a “Process, implemented by a processor including executable instructions, for activation by recognition of synchronization signals in at least one audiovisual programme received, said audiovisual programme comprising an audiovisual content intended to be transmitted to users and control information” and that the “process of activation being implemented by means of a recognition unit and an activation unit”. Therefore, it is respectfully submitted that the claimed process is tied to a specific machine and is patentable subject matter under 35 USC 101.

Moreover, Fig. 1 of the specification shows a recognition unit 2 receiving an audiovisual programme 15 and transmitting action instructions 12 to an activation unit 3. The recognition unit 2 is shown in Figures 3 and 4 and the corresponding description on pages 23, line 14 – page 25, line 13. The activation unit 3 is described on pages 25, lines 14 – 21. Moreover, on page 7, line 4 – 7 the present specification states that a “*subject of the invention is also units and processes for specifying and recognizing synchronization signals, useable for the synchronization system of the invention and able to offer the aforesaid advantages.*”. As previously discussed, “units” may be implemented through non-software components (tangible) as an alternative to being implemented through software (intangible). Moreover, as discussed above with respect to the rejection of claims 23 – 46, the recognition units and activation units are tangible

hardware components and not merely software per se as alleged in the Office Action. Therefore, it is respectfully submitted that the method claimed in claim 47 is tied to a particular machine for implementing the claimed activities. Thus, it is respectfully submitted that this rejection has been overcome and should be withdrawn.

Claim 48 has been amended to recite a “Specification process, implemented by a processor including executable instructions, for specifying synchronization signals associated with at least one audiovisual programme, said audiovisual programme comprising an audiovisual content intended to be transmitted to users and control information, and said synchronization signals being intended to be detected in at least one stream carrying said audiovisual programme transmitted via a broadcasting network and to thus trigger at least one action and that the “said specification process being implemented by means of a specification unit”. Therefore, it is respectfully submitted that the claimed process is tied to a specific machine and is patentable subject matter under 35 USC 101. Additionally, as discussed above with respect to the rejection of claims 23 – 46, the term unit includes a tangible hardware component and not merely software per se as alleged in the Office Action. Therefore, it is respectfully submitted that the method claimed in claim 48 is tied to a particular machine for implementing the claimed activities. Thus, it is respectfully submitted that this rejection has been overcome and should be withdrawn.

Claim 49 has been amended to recite a “Synchronization process, implemented by a processor including executable instructions” and that the “synchronization process being implemented by a synchronization system”. Therefore, it is respectfully submitted that the claimed process is tied to a specific machine and is patentable subject matter under 35 USC 101. Thus, it is respectfully submitted that this rejection has been overcome and should be withdrawn.

In view of the above remarks and amendments to the claims, it is respectfully submitted that the methods claimed in independent claims 47, 48 and 49 are tied to a particular machine and therefore are patentable subject matter under 35 USC 101.

Therefore, it is further respectfully submitted that the rejection of claims 46 – 51 has been overcome and should be withdrawn.

**Rejection of Claim 50 – 52 under 35 USC 101**

Claims 50 – 52 are rejected under 35 USC 101 as being directed toward non-statutory subject matter because they are not limited to tangible embodiments. Claims 50 – 52 are amended in accordance with the suggestion in the Office Action to recite that claimed “computer readable storage medium” is a “computer readable **non-transitory storage medium**”. Thus, it is respectfully submitted that this rejection has been overcome and should be withdrawn.

**Rejection of Claims 23-29 and 31 - 52 under 35 U.S.C. 102(b)**

Claims 23 - 29 and 31 - 52 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoffberg et al. (US 5,920,477).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP §2131, citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).]

Claim 23 provides a recognition unit comprising a processor for executing instructions for recognizing synchronization signals in at least one audiovisual programme received, the audiovisual programme comprising an audiovisual content intended to be transmitted to users and control information. The recognition unit includes a reception module and a recording module for recording in a storage space, recognition elements making it possible to obtain at least one extracted portion of the content of said audiovisual programme. A reception module receives via a broadcasting network, at least one transmitted stream carrying the audiovisual programme. A detection module detects the synchronization signals in the audiovisual programme received, by means of the recognition elements stored in the storage space, by recognition in the content of the audiovisual programme received, of the extracted

portion. A transmission module transmits action instructions in case of detection of the synchronization signals in the audiovisual programme, the instructions being designed to trigger at least one action. The module for receiving the recognition elements is designed to receive among the recognition elements, instructions for extracting the extracted portion from at least one stream of an audiovisual programme previously received by the stream reception module, the portion being extracted from the audiovisual programme previously received, and in that the recording module is designed to directly extract the portion of said stream according to the extraction instructions and to record the portion in the storage space. For the reasons presented below, Applicants respectfully submit that Hoffberg fails to disclose each feature claimed in claim 1 and therefore does not anticipate the recognition unit of claim 23.

Unlike the claimed arrangement, Hoffberg provides an enhanced interface for facilitating human input of a desired control sequence in a programmable device (e.g. a VCR) by employing specialized visual feedback (see Abstract). Hoffberg is fundamentally different from the claimed arrangement which makes it possible to initiate actions from a received audio-visual stream that is completely unintrusive with regard to broadcasters and operators of services while permitting simple and reliable implementation (Application, page 6, lines 18 – 25).

The Office Action asserts that Hoffberg, in col. 21, lines 53-60 discloses the claimed “recognition unit comprising a processor for executing instructions for recognizing synchronization signals in at least one audiovisual programme received, said audiovisual programme comprising an audiovisual content intended to be transmitted to users and control information”. Specifically, the Office Action asserts that Hoffberg discusses inclusion of unique identifier codes each separate program being transmitted that allows a VCR to identify the particular program and begin recording when the user, via a remote control, has entered this code and when the code is received by the VCR is equivalent to the claimed “recognition elements” that make it “possible to obtain at least one extracted portion of the content of said audiovisual programme”. Applicants respectfully disagree.

Contrary to the assertion in the Office Action, the section of Hoffberg relied on in the Office Action (and elsewhere) describes a system and process that is fundamentally different from and not equivalent to the present claimed “recognition unit”. The identifier codes described in Hoffberg are transmitted by special Video Program System Signal Transmitters (col. 21 lines 52-60). The identifier codes are emitted in a Video Program System Signal by the Video Program System Signal Transmitters of television stations and are transmitted at the beginning of a program and are not audio or video but rather digital data comprised in videotext, interpreted by a videotext programs computer. As stated in column 21, line 47 of Hoffberg: “*This is a different implementation of the Videotext system (..)*” and column 21, line 60 of Hoffberg: “*The videotext programs computer (VPV) disclosed does not intelligently interpret the transmission, rather the system reads the transmitted code as a literal label (..)*”. It is well known by persons skilled in the art that videotext is non-audio and non-video digital data added to a television channel. In fact, this interpretation is confirmed in column 22, lines 7 – 10 of Hoffberg which states that the “videotext signal of the prior art includes a digitally encoded text message which may be displayed in conjunction with the displayed image, similar to the closed caption system”. Thus, contrary to the assertion in the Office Action, identifier codes of Hoffberg cannot be considered to be part of an audiovisual programme such as the “at least one audiovisual programme” that is received by the claimed recognition unit. The present specification, on page 7, lines 1 – 3, specifically states that “*the expression ‘audiovisual programme’ is aimed at audio and/or video programmes*”.

Moreover, the Office Action asserts that the identifier codes of Hoffberg are analogous to both the claimed “recognition elements” and the claimed “synchronization signals in said audiovisual program”. Applicants respectfully disagree. Contrary to the interpretation in the Office Action the claimed “recognition elements” are different from the claimed “synchronization signals” because they accomplish different objectives in a different manner. The identifier codes described in Hoffberg are transmitted as a label, are associated with a transmission and are merely matched to

user input to cause a transmission to be recorded. However, these identifier codes are not included within a particular audiovisual programme as in the present claimed arrangement.

In addition, Hoffberg describes monitoring of a television channel for the unique identifier code, in order to detect the start of a programme and then start recording the programme. Monitoring a television channel for identifier code data as in Hoffberg is fundamentally different from the detection of synchronization signals via recognition elements that correspond to a portion of the particular audiovisual programme as in the claimed arrangement. In the present claimed arrangement, the recognition unit includes a processor for executing instructions that recognizes synchronization signals in at least one received audiovisual programme by recognizing a portion of content of the audiovisual programme that is extracted from the total content of the audiovisual programme. Unlike the claimed arrangement, Hoffberg monitors a television channel for a unique identifier code from non-audio and non-video digital data that is added to the television channel. This is fundamentally different from the claimed arrangement which recognizes portions of the audiovisual programme without any additional data being changed and/or inserted into the audiovisual programme to provide a synchronization signal. Thus, the claimed arrangement advantageously enables system recognition of synchronization signals without adding or changing information within the audiovisual program data. The section of Hoffberg relied on the in Office Action (and elsewhere) teaches away from the claimed arrangement because it requires the insertion of data (identifier codes) into the transmission and uses this data to begin recording the transmission.

The present specification, on page 10, lines 17 – 19, provides examples of what the extracted portion may include and states “[p]referably, each of the portions of content consists of at least one of the following portions : an image, an image part, a sound and any combination of at least two of these portions.” A recognized portion is then considered as a detection of a synchronization signal as defined on page 7, lines 18 – 22 of the present specification which states:

"The recognition unit of the invention is therefore capable of detecting synchronization signals without any modification being made to the audiovisual programmes, by direct analysis of the audiovisual content (such as pictures, sounds, part of the latter or in combinations) broadcast to the users."

Therefore, it is respectfully submitted that the inclusion of identifier codes in a transmission stream as taught by Hoffberg teaches away from the present claimed arrangement which recognizes the content of an audiovisual programme "by means of said recognition elements stored in said storage space". Unlike the claimed arrangement, Hoffberg describes a system that requires the transmission to be modified in order to identify the content. This is in direct contrast to the claimed system which enables the recognition unit to detect that a synchronization signal exists without the need to modify the audiovisual program itself or the stream in which it was transmitted and instead use a particular portion of the content of the audiovisual programme.

It is further respectfully submitted that, contrary to the assertion in the Office Action, Hoffberg fails to teach or suggest "the module for receiving the recognition elements is designed to receive among said recognition elements, instructions for extracting said extracted portion from at least one stream of an audiovisual programme previously received by the stream reception module, said portion being extracted from said audiovisual programme previously received, and in that said recording module is designed to directly extract said portion of said stream according to said extraction instructions and to record the said portion in the storage space" as recited in claim 23. The Office Action relies on the description of monitoring a channel for an identifier code and beginning a recording upon detection of the identifier code as taught in column 21, lines 53 – 60 of Hoffberg in support of the assertion that the claimed feature is disclosed. Applicants respectfully disagree. Unlike the claimed arrangement, Hoffberg merely looks for a non-audio, non-video text identifier that is associated with a particular program and, upon detection thereof, causes the entire program to be recorded. This is fundamentally different from the claimed arrangement wherein

"instructions for extracting said extracted portion from at least one stream of an audiovisual programme **previously received by the stream reception module**" to extract that portion and record the extracted portion in storage space. Hoffberg merely monitors incoming programs and does not extract a portion of an audiovisual programme that has already been received as in the claimed arrangement.

As Hoffberg operates in a fundamentally different manner than the present claimed arrangement, it is respectfully submitted that Hoffberg cannot teach or suggest the present claimed "detection module for detecting said synchronization signals in said audiovisual programme received, by means of said recognition elements stored in said storage space, by recognition in the content of said audiovisual programme received, of said extracted portion" as recited in claim 23. Rather, Hoffberg describes a VCR that is able to monitor a received television transmission for non-audio, non-video identifier code data to determine if a recording should occur. The monitoring of ancillary data in a transmission stream is not equivalent to using "recognition elements making it possible to obtain at least one extracted portion of the content of said audiovisual programme" to detect "synchronization signals in said audiovisual programme" by recognizing that a portion of the audiovisual programme corresponds to the extracted portion. Thus, Hoffberg monitors a different type of transmission for a different type of data (non-audio, non-video data) as compared to the claimed arrangement which identifies particular portions of the audiovisual programme which necessarily include audio and/or video data such as pictures, etc.

In view of the above remarks, it is respectfully submitted that Hoffberg fails to teach or suggest every element claimed in claim 26. Therefore, it is further respectfully submitted that Hoffberg cannot anticipate the present claimed arrangement. Thus, withdrawal of the rejection of claim 26 is respectfully requested.

Claims 24 – 29 and 31 – 33 are dependent on independent claim 23 and are considered patentable for the reasons presented above with respect to claim 23. Specifically, as each element of claims 24 – 29 and 31 – 33 are neither taught nor

suggested by Hoffberg, it is respectfully submitted that claims 24 – 29 and 31 – 33 are not anticipated by Hoffberg. Consequently, withdrawal of the rejection of claims 24 – 29 and 31 – 33 is respectfully requested.

Claim 34 provides a specification unit comprising a processor for executing instructions for specifying synchronization signals associated with at least one audiovisual programme, the audiovisual programme comprising an audiovisual content intended to be transmitted to users and control information, and the synchronization signals being intended to be detected in at least one stream carrying the audiovisual programme transmitted via a broadcasting network and to thus trigger at least one action. The said specification unit includes a preparation module for preparing recognition elements making it possible to obtain at least one extracted portion of the content of the audiovisual programme and a transmission module for transmitting the recognition elements independently of transmissions of the audiovisual programme, to at least one recognition unit intended to detect the synchronization signals in the transmitted stream carrying the audiovisual programme, by recognizing the extracted portion in the content of the audiovisual programme. the preparation and transmission modules of the unit are designed respectively to prepare and transmit extraction instructions, in at least one stream of an audiovisual programme previously received by the recognition unit via the broadcasting network, for extracting the portion of content, the portion being extracted from the audiovisual programme previously received. For the reasons presented below Applicants respectfully submit that Hoffberg fails to disclose or suggest each feature of claim 34 and therefore does not anticipate claim 34.

Claim 34 is considered patentable for similar reasons as discussed above with respect to independent claim 23. The Office Action relies on substantially the same sections of Hoffberg in support of the assertion that Hoffberg anticipates each feature claimed in independent claim 34. Applicants respectfully disagree. Specifically, the claimed arrangement specifies and prepares particular recognition elements to be transmitted independently of audiovisual programme transmission. The system described in column 21, lines 52 – 60 of Hoffberg is merely a monitoring system and fails to provide any enabling disclosure of “preparing recognition elements making it

possible to obtain at least one extracting portion of the content of said audiovisual programme” as recited in claim 34. Rather, the section relied on in the Office Action merely describes a set of predetermined codes, that are known and when input by a user at the receiving end, that triggers recording of the program. This is fundamentally different from the claimed arrangement which prepares the recognition elements which enable a recognition unit to determine if synchronization signals exist by identifying a portion of the audiovisual programme removing the need to append data to the transmission stream of the audiovisual programme.

The Office Action relies on column 25, line 62 – column 26, line 2 in support of the assertion that Hoffberg discloses the claimed “preparation module”. Applicants respectfully disagree. Rather, the cited section of Hoffberg (and elsewhere) merely describes receiving input from an input device, i.e. a remote control. The received input includes identifying data that determines data to be stored on a storage apparatus. Input from a remote control is not equivalent to “preparing recognition elements making it possible to obtain at least one extracted portion of the content of said audiovisual programme” as recited in claim 37. The input received from the input device in Hoffberg may enable recording of an entire transmission. However, this is not equivalent to the claimed arrangement which enables extraction of a portion of the content which is then used to determine if synchronization signals corresponding the extracted portion of the programme are present in the audiovisual programme received at a recognition unit.

Additionally, the Office Action relies on column 21, lines 52 – 60 in support of the assertion that the claimed “transmission module” is disclosed. Applicants respectfully disagree. Contrary to the assertion in the Office Action, Hoffberg merely describes transmitting the identifier codes as a videotext text message with the transmission (see col. 21, line 52 – 60 and col. 22, lines 7 – 10). Therefore, Hoffberg teaches away from the claimed arrangement which recites “a transmission module for transmitting said recognition elements **independently** of transmissions of said audiovisual programme”.

Furthermore, the Office Action relies on the description of monitoring a channel for an identifier code and beginning a recording upon detection of the identifier code as taught in column 21, lines 53 – 60 of Hoffberg in support of the assertion that the Hoffberg discloses “the preparation and transmission modules of said unit are designed respectively to prepare and transmit extraction instructions, in at least one stream of an audiovisual programme previously received by the recognition unit via the broadcasting network, for extracting said portion of content, said portion being extracted from said audiovisual programme previously received” as recited in claim 34. Applicants respectfully disagree. Unlike the claimed arrangement, Hoffberg merely looks for a non-audio, non-video text identifier that is associated with a particular program and, upon detection thereof, causes the entire program to be recorded. This is fundamentally different from the claimed arrangement wherein “instructions for extracting said extracted portion from at least one stream of an audiovisual programme previously received by the recognition unit via the broadcasting network” are prepared and transmitted by the preparation and transmission modules, respectively. As discussed above, there is nothing in the cited section of Hoffberg (or elsewhere) that teaches or suggests preparing extraction instructions that are associated with recognition elements as in the claimed arrangement. Hoffberg merely monitors incoming programs and does not prepare instructions instructing a device to extract a portion of an audiovisual programme that has already been received as in the claimed arrangement.

Therefore, as each element of claim 34 is neither taught nor suggested by Hoffberg, it is respectfully submitted that Hoffberg fails to anticipate the present claimed arrangement. Thus, withdrawal of the rejection of claim 34 is respectfully requested.

Claims 35 and 36 are dependent on claim 34 and are considered patentable for the reasons presented above with respect to claim 34. Specifically, as each element of claims 35 and 36 are neither taught nor suggested by Hoffberg, it is respectfully

submitted that claims 35 and 36 are not anticipated by Hoffberg. Consequently, withdrawal of the rejection of claims 35 and 36 is respectfully requested.

Claim 37 provides synchronization system comprising a processor for executing instructions comprising a specification unit for specifying synchronization signals associated with at least one audiovisual programme, the audiovisual programme comprising an audiovisual content intended to be transmitted to users and control information. A recognition unit for recognizing the synchronization signals in at least one stream carrying the audiovisual programme transmitted via a broadcasting network, by recognizing at least one extracted portion of the content of the audiovisual programme, in the audiovisual programme received. An activation unit is designed to trigger at least one action in the case of detection of the synchronization signals by the recognition unit. The specification unit is designed to prepare and transmit to the recognition unit recognition elements making it possible to obtain the extracted portion and comprising instructions for extracting the portion of the content from at least one stream of an audiovisual programme previously received by the recognition unit via the broadcasting network, the portion being extracted from the audiovisual programme previously received, and in that the recognition unit is designed to directly extract the portion of the stream according to the extraction instructions and to record the portion. For the reasons presented below, Applicants respectfully submit that Hoffberg fails to disclose each feature claimed in claim 37 and therefore does not anticipate claim 37.

The Office Action cites column 21, lines 52 – 60 in support of the assertion that the present claimed “specification unit” is disclosed. Applicants respectfully disagree. Unlike the claimed arrangement, Hoffberg merely describes transmitting the identifier codes as a videotext text message with the transmission (see col. 21, line 52 – 60 and col. 22, lines 7 – 10). Hoffberg fails to teach or suggest a specification unit that is “designed to prepare and transmit to the recognition unit recognition elements making it possible to obtain said extracted portion and comprising instructions for extracting said portion of the content from at least one stream of an audiovisual programme

previously received by the recognition unit via the broadcasting network, said portion being extracted from said audiovisual programme previously received, and in that the recognition unit is designed to directly extract said portion of said stream according to said extraction instructions and to record said portion" as recited in claim 37. Unlike the claimed arrangement, Hoffberg merely looks for a non-audio, non-video text identifier that is associated with a particular program and, upon detection thereof, causes the entire program to be recorded. This is fundamentally different from the claimed arrangement wherein "instructions for extracting said extracted portion from at least one stream of an audiovisual programme previously received by the recognition unit via the broadcasting network" are prepared and transmitted by the preparation and transmission modules, respectively. As discussed above, there is nothing in the cited section of Hoffberg (or elsewhere) that teaches or suggests preparing extraction instructions that are associated with recognition elements as in the claimed arrangement. Hoffberg merely monitors incoming programs and does not prepare instructions instructing a device to extract a portion of an audiovisual programme that has already been received as in the claimed arrangement. Unlike the claimed arrangement, the cited section of Hoffberg (and elsewhere) specifically describes appending text data to a transmission signal and transmitting the signal to the receiver. This interpretation is confirmed by the acknowledgement on page 13 of the Office Action which states that Hoffberg monitors transmission channels for the code and then acts in response to receipt of the code.

Moreover, the monitoring of a transmission channel for a text code as in Hoffberg is not equivalent to using recognition elements for "recognizing said synchronization signals in at least one transmitted stream carrying said audiovisual programme, by recognition of at least one extracted portion of the content of said audiovisual programme, in the audiovisual programme received" as in the present claimed arrangement. In contrast to the present claimed arrangement, Hoffberg requires additional non-audio, non-video data to match data input by a user. On the other hand, the claimed arrangement uses recognition elements including an extracted portion of the audiovisual programme to detect if the extracted portion is in the received

audiovisual programme to determine if a synchronization signal is present. Hoffberg fails to contemplate an equivalent feature. Therefore, as each element of claim 37 is neither taught nor suggested by Hoffberg, it is respectfully submitted that Hoffberg fails to anticipate the present claimed arrangement. Thus, withdrawal of the rejection of claim 37 is respectfully requested. Therefore, as Hoffberg fails to disclose or suggest each feature of claim 37, Applicants respectfully submit that claim 37 is not anticipated by Hoffberg. Thus, withdrawal of the rejection of claim 37 is respectfully requested.

Claim 38 provides a broadcasting center that comprises a specification unit in accordance with claim 34. Thus, it is respectfully submitted that claim 38 is considered patentable for the reasons presented above with respect to claim 34. Therefore, as each feature of claim 38 is neither taught nor suggested by Hoffberg, it is further respectfully submitted that claim 38 is not anticipated by Hoffberg. Consequently, withdrawal of the rejection of claim 38 is respectfully requested.

Claim 39 provides a broadcasting center that comprises a recognition unit in accordance with claim 23. Thus, it is respectfully submitted that claim 39 is considered patentable for the reasons presented above with respect to claim 23. Therefore, as each feature of claim 39 is neither taught nor suggested by Hoffberg, it is further respectfully submitted that claim 39 is not anticipated by Hoffberg. Consequently, withdrawal of the rejection of claim 39 is respectfully requested.

Claim 40 provides a broadcasting center that comprises a synchronization system in accordance with claim 34. Thus, it is respectfully submitted that claim 40 is considered patentable for the reasons presented above with respect to claim 34. Therefore, as each feature of claim 40 is neither taught nor suggested by Hoffberg, it is further respectfully submitted that claim 40 is not anticipated by Hoffberg. Consequently, withdrawal of the rejection of claim 40 is respectfully requested.

Claim 41 provides a services operator that comprises a specification unit in accordance with claim 34. Thus, it is respectfully submitted that claim 41 is considered patentable for the reasons presented above with respect to claim 34. Therefore, as each feature of claim 41 is neither taught nor suggested by Hoffberg, it is further respectfully submitted that claim 41 is not anticipated by Hoffberg. Consequently, withdrawal of the rejection of claim 41 is respectfully requested.

Claim 42 provides a services operator that comprises a recognition unit in accordance with claim 23. Thus, it is respectfully submitted that claim 42 is considered patentable for the reasons presented above with respect to claim 23. Therefore, as each feature of claim 42 is neither taught nor suggested by Hoffberg, it is further respectfully submitted that claim 42 is not anticipated by Hoffberg. Consequently, withdrawal of the rejection of claim 42 is respectfully requested.

Claim 43 provides a services operator that comprises a synchronization system in accordance with claim 37. Thus, it is respectfully submitted that claim 43 is considered patentable for the reasons presented above with respect to claim 37. Therefore, as each feature of claim 43 is neither taught nor suggested by Hoffberg, it is further respectfully submitted that claim 43 is not anticipated by Hoffberg. Consequently, withdrawal of the rejection of claim 43 is respectfully requested.

Claim 44 provides a terminal that comprises a specification unit in accordance with claim 34. Thus, it is respectfully submitted that claim 44 is considered patentable for the reasons presented above with respect to claim 34. Therefore, as each feature of claim 44 is neither taught nor suggested by Hoffberg, it is further respectfully submitted that claim 44 is not anticipated by Hoffberg. Consequently, withdrawal of the rejection of claim 44 is respectfully requested.

Claim 45 provides a terminal that comprises a recognition unit in accordance with claim 23. Thus, it is respectfully submitted that claim 45 is considered patentable for the reasons presented above with respect to claim 23. Therefore, as each feature of

claim 45 is neither taught nor suggested by Hoffberg, it is further respectfully submitted that claim 45 is not anticipated by Hoffberg. Consequently, withdrawal of the rejection of claim 45 is respectfully requested.

Claim 46 provides a terminal that comprises a synchronization system in accordance with claim 37. Thus, it is respectfully submitted that claim 46 is considered patentable for the reasons presented above with respect to claim 37. Therefore, as each feature of claim 46 is neither taught nor suggested by Hoffberg, it is further respectfully submitted that claim 46 is not anticipated by Hoffberg. Consequently, withdrawal of the rejection of claim 46 is respectfully requested.

Independent claim 47 is a method claim that includes similar features as claim 23. Therefore claim 47 is considered patentable for the reasons presented above with respect to claim 23. Thus, Applicant respectfully submits that Hoffberg fails to anticipate claim 47. Consequently, withdrawal of the rejection of claim 47 is respectfully requested.

Independent claim 48 is a method claim that includes similar features as claim 34. Therefore, claim 48 is considered patentable for the reasons presented above with respect to claim 34. Thus, Applicant respectfully submits that Hoffberg fails to anticipate claim 48. Consequently, withdrawal of the rejection of claim 48 is respectfully requested.

Independent claim 49 is a method claim that includes similar features as claim 37. Therefore claim 49 is considered patentable for the reasons presented above with respect to claim 37. Thus, Applicant respectfully submits that Hoffberg fails to anticipate claim 49. Consequently, withdrawal of the rejection of claim 49 is respectfully requested.

Independent claim 50 is an independent claim which provides a computer readable non-transitory storage medium including features that are similar to those claimed in

claim 23. Therefore, claim 50 is considered patentable for the reasons presented above with respect to claim 23. Thus, Applicant respectfully submits that Hoffberg fails to anticipate claim 50. Consequently, withdrawal of the rejection of claim 50 is respectfully requested.

Independent claim 51 is an independent claim which provides a computer readable non-transitory storage medium including features similar to those claimed in claim 34. Therefore, claim 51 is considered patentable for the reasons presented above with respect to claim 34. Thus, Applicant respectfully submits that Hoffberg fails to anticipate claim 51. Consequently, withdrawal of the rejection of claim 51 is respectfully requested.

Independent claim 52 is an independent claim which provides a computer readable non-transitory storage medium including features similar to those claimed in claim 37. Therefore, claim 51 is considered patentable for the reasons presented above with respect to claim 37. Thus, Applicant respectfully submits that Hoffberg fails to anticipate claim 52. Consequently, withdrawal of the rejection of claim 52 is respectfully requested.

In view of the above remarks it is respectfully submitted the Office Action fails to make a *prima facie* case that the present claimed arrangement is anticipated by Hoffberg. Thus, Applicant respectfully submits that claims 23 – 29 and 31 – 52 are not anticipated by Hoffberg. It is thus, further respectfully submitted that this rejection is overcome and should be withdrawn.

**Rejection of Claim 30 under 35 U.S.C. 103(a)**

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over by Hoffberg et al. (US 5,920,477) in view of Solvason (WO 02/21840 A2).

The failure of an asserted combination to teach or suggest each and every feature of a claim remains fatal to an obviousness rejection under 35 U.S.C. § 103. Section 2143.03 of the MPEP requires the “consideration” of every claim feature in an obviousness determination. To render a claim unpatentable, however, the Office must do more than merely “consider” each and every feature for this claim. Instead, the asserted combination of the patents must also teach or suggest *each and every claim feature*. See *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) (emphasis added) (to establish *prima facie* obviousness of a claimed invention, all the claim features must be taught or suggested by the prior art). Indeed, as the Board of Patent Appeals and Interferences has recently confirmed, a proper obviousness determination requires that an Examiner make “a searching comparison of the claimed invention - *including all its limitations* - with the teaching of the prior art.” See *In re Wada and Murphy*, Appeal 2007-3733, citing *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis in original). “If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious” (MPEP §2143.03, citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)).

Claim 30 is dependent on claim 23 and is considered patentable for the reasons presented above with respect to claim 23. Additionally, Solvason (with Hoffberg) fails to teach or suggest “a reception module and a recording module for recording in a storage space, recognition elements making it possible to obtain at least one extracted portion of the content of said audiovisual programme” as recited in claim 23. Solvason (with Hoffberg) also fails to teach or suggest “a detection module for detecting said synchronization signals in said audiovisual programme received, by means of said recognition elements stored in said storage space, by recognition in the content of said audiovisual programme received, of said extracted portion” and “a transmission module for transmitting action instructions in case of detection of said synchronization signals in said audiovisual programme, said instructions being designed to trigger at least one action” as recited in claim 23. Furthermore, Hoffberg fails to teach or suggest that “the module for receiving the recognition elements is designed to receive among said recognition elements, instructions for extracting said extracted portion from at

least one stream of an audiovisual programme previously received by the stream reception module, said portion being extracted from said audiovisual programme previously received, and in that said recording module is designed to directly extract said portion of said stream according to said extraction instructions and to record the said portion in the storage space" as recited in claim 23.

Claim 30 is further considered patentable because Solvason (with Hoffberg) fails to teach or suggest that "said recognition elements include at least one Boolean operator, said detection module being designed to detect at least two of said portions of content in conjunction with said Boolean operator and the transmission module being designed to transmit said action instructions in case of such detection" as recited in claim 30. The Office Action cites col. 44 lines 5-36 of Hoffberg, in support of the assertion that the claimed feature of the detection module being designed to detect at least two of the portions of content is disclosed. Applicants respectfully disagree. It is respectfully submitted that the Office Action misunderstands the present claimed arrangement because the section relied on Hoffberg (and elsewhere), discusses "characteristics of program material", which Hoffberg explains in col. 44 lines 16-36. These characteristics are fundamentally different from and not equivalent to the claimed "portions of content" which are the portions of content of the audiovisual programme extracted using the recognition elements. The characteristics described in Hoffberg merely relate to the type of programming and have nothing to do with using the actual received programme data to detect synchronization signals.

The Office Action acknowledges that Hoffberg fails to teach that the recognition element includes at least one Boolean operator and cites page 10, line 22 – page 11, line 8 of Solvason in support of the assertion that this feature is disclosed. Applicants respectfully disagree. As set forth in the response filed on August 31, 2009, Solvason fails to teach or suggest the use of recognition elements as in the claimed arrangement. Rather, the cited section of Solvason (and elsewhere) relates to specifying user characteristics using a Boolean expression to define actions to be taken for particular client computers. This is not equivalent to the claimed recognition elements

which are transmitted to at least one recognition unit intended and used in detecting synchronization signals associated with at least one audiovisual programme in a transmitted stream carrying the audiovisual programme, by recognizing extracted portion(s) in the content of the audiovisual programme. The URI command described in Solvason is NOT equivalent to the claimed recognition elements. URI commands are not used for detecting synchronization of any type for any purpose and therefore are not "recognition elements" which make it possible to obtain at least one extracted portion of the content of an audiovisual programme.

Even if one were to combine the system of Hoffberg with the system of Solvason, the resulting system would merely enable user input of multiple identifier codes that are constructed using a Boolean expression. The combination would still fail to teach or suggest "a reception module and a recording module for recording in a storage space, recognition elements making it possible to obtain at least one extracted portion of the content of said audiovisual programme" as recited in claim 23. Solvason (with Hoffberg) also fails to teach or suggest "a detection module for detecting said synchronization signals in said audiovisual programme received, by means of said recognition elements stored in said storage space, by recognition in the content of said audiovisual programme received, of said extracted portion" and "a transmission module for transmitting action instructions in case of detection of said synchronization signals in said audiovisual programme, said instructions being designed to trigger at least one action" as recited in claim 23. Hoffberg also fails to teach or suggest that "the module for receiving the recognition elements is designed to receive among said recognition elements, instructions for extracting said extracted portion from at least one stream of an audiovisual programme previously received by the stream reception module, said portion being extracted from said audiovisual programme previously received, and in that said recording module is designed to directly extract said portion of said stream according to said extraction instructions and to record the said portion in the storage space" as recited in claim 23. Furthermore, the combination of Solvason with Hoffberg also fails to teach or suggest that "said recognition elements include at least one Boolean operator, said detection module being designed to detect at least two

of said portions of content in conjunction with said boolean operator and the transmission module being designed to transmit said action instructions in case of such detection".

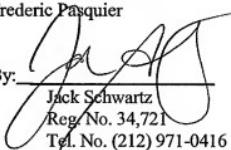
In view of the above remarks, it is respectfully submitted that the Office Action fails to make a *prima facie* case that the present claimed arrangement is obvious over Hoffberg alone or in combination with Solvason. Therefore, as the combination fails to teach or suggest each feature claimed in claim 30, it is respectfully submitted that this rejection is overcome and should be withdrawn.

Having fully addressed the Examiner's rejections, it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the Applicant's attorney at the phone number below, so that a mutually convenient date and time for a telephonic interview may be scheduled.

No additional fee is believed due. However, if a fee is due, please charge the additional fee to Deposit Account 07-0832.

Respectfully submitted,  
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